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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,288	04/02/2007	Armin Stubner	022862-1097	6321
23409 7590 08/30/2010 MICHAEL BEST & FRIEDRICH LLP 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202				
EXAMINER				
GRAHAM, GARY K				
ART UNIT		PAPER NUMBER		
3727				
MAIL DATE		DELIVERY MODE		
08/30/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/594,288

**Applicant(s)**

STUBNER, ARMIN

**Examiner**

Gary K. Graham

**Art Unit**

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 19 is/are rejected.
- 7) ☒ Claim(s) 14-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/CD)  
Paper No(s)/Mail Date 20060925 & 20090505
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to because in figure 2, it appears reference numeral “32” directed to the filter should be ---38---and reference numeral “38” directed to the angle rotation switching element should be ---58---. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4-6, 9, 10 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4, line 3, use of "in particular" appears indefinite. Such terminology leads to confusion as to exactly what is being claimed. It cannot be determined from such terminology whether the three connections are further defined or not.

In claim 10, line 2, it appears "recording" should be ---detection--- to provide for consistent terminology with claim 1.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Ashiya et al (US patent application publication 2003/0169007).

The publication to Ashiya discloses the invention as is claimed. Ashiya discloses a motor drive (see fig.1) including an electric motor (3) and junction box (1). Ashiya discloses that such drive can be used for driving wipers (para. 89), thus establishing a wiper device, at least as claimed. Such drive can be driven at low, middle or high speeds. The drive includes first, second and third connections (3a,3b,3c) as well as a ground connection (3d). Temperature detection/switching means (18a or 18b) are provided to switch the drive from a higher speed to a lower speed when a predetermined operating temperature is exceeded in an attempt to decrease motor temperature.

Claims 1, 3, 4, 5 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Stubner (DE 10157386).

The patent to Stubner discloses the invention as is claimed. Stubner discloses a wiper device (see fig.) including an electric motor (2) with first and second connections (7,12) as well as a ground connection (15). A thermal relay (18) which acts as temperature detection means and switching means is provided to interrupt the ground connection when a predetermined operating temperature is exceeded. Note that actuation of the thermal relay will reduce the drive from a second speed (for example a high speed) to a reduced speed (for example standstill).

With respect to claim 5, actuation of the thermal relay (18) will interrupt the second connection as current will cease to flow.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ashiya et al (US patent application publication 2003/0169007) in view of Stubner (DE 10157386).

The publication to Ashiya discloses all of the above recited subject matter with the exception of additional switching means connected to the ground connection to switch of the drive.

Stubner discloses all of the above recited subject matter, including a switching means on the ground connection to switch off the drive in the event of overheating.

It would have been obvious to one of skill in the art to provide the ground connection of Ashiya with a switching means on the ground connection, as clearly suggested by Stubner, to enable automatic shutting off of the drive to prevent damage thereto upon excessive heating. Such would at least provide additional protection to the system suggested by Ashiya.

***Allowable Subject Matter***

Claims 14-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 6, 9 and 19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gary K Graham/  
Primary Examiner, Art Unit 3727

GKG  
26 August 2010